

**CITY OF LODI
INFORMAL INFORMATIONAL MEETING
"SHIRTSLEEVE" SESSION
CARNEGIE FORUM, 305 WEST PINE STREET
TUESDAY, MAY 27, 2003**

An Informal Informational Meeting ("Shirtsleeve" Session) of the Lodi City Council was held Tuesday, May 27, 2003, commencing at 7:02 a.m.

A. ROLL CALL

Present: Council Members – Beckman, Hansen, Land, and Mayor Hitchcock

Absent: Council Members – Howard

Also Present: City Manager Flynn and City Clerk Blackston

Absent: City Attorney

B. CITY COUNCIL CALENDAR UPDATE

City Clerk Blackston reviewed the weekly calendar (filed).

C. TOPIC(S)

C-1 "Informational discussion regarding the formation of Landscaping and Lighting District according to the procedures set forth in the Landscaping and Lighting Act of 1972"

Public Works Director Prima recalled that in the 1960s there were quite a few designs for streets with only a wall (e.g. south Hutchins Street), which the City owned and maintained. In the 1990s there was an effort to increase the amount of landscaping; however, the City did not have funds to maintain it, so it remained privately owned and maintained by homeowner associations (e.g. Sunwest, Woodlake, and Bridgetown developments). Later the City set up a fee option for developers, in which the City would maintain the fence in perpetuity. In 1999 Council adopted a policy (filed) which gave developers the choice of: 1) paying a one-time fee to the City for it to maintain the fence; 2) creating a homeowners association; or 3) forming a landscape and lighting district. Mr. Prima reported that KB Home will be building a project in southeast Lodi and are interested in creating a landscape and lighting district. He stated that a drawback to the district is that property owners could abolish the district at some point in the future.

Wally Sandelin, City Engineer, explained that the City's landscape and lighting district policy states that the Resolution of Intention for the public hearing would be approved concurrently with approval of the final map. He stated that KB Home wants to process its final map as quickly as possible and the process to get the Resolution of Intention is probably longer than they are interested in waiting. The location of the Almondwood Estates project is near the intersection of Stockton Street and Kettleman Lane. The project includes a long wall with relatively few lots behind it. The one-time lump sum payment option would amount to \$70,000. There are 74 lots in the project. Mr. Sandelin explained that the first step in setting up a landscaping and lighting district is to have the Council initiate the proceedings; however, he stated that he was not certain what constitutes the initiation. Once the proceedings are initiated, the engineer's report is prepared, which establishes the cost for ongoing maintenance and replacement and apportions the cost to each parcel or benefiting property in the district. He commented that some might argue that the City's right of way is a benefiting parcel, and consequently the City's general fund would have to bear the burden of the landscaping and maintenance cost. He stated that there would be substantial cost incurred for the process, which would be borne by the developer as the district is formed and possibly later reimbursed. He estimated it at \$5,000 to \$8,000 in addition to City staff time. Mr. Sandelin noted that at

this time the City does not have a way to contract staff costs as they apply to specific projects. He reported that Proposition 218, which was passed in 1996, is still going through a litigation process and there may be future changes in how the initiative is applied to districts. Cost escalators to cover increases in landscaping, maintenance, and replacement activities can be included; however, currently escalation factors are near zero. If after the district is formed, there is a substantial increase in inflation, there would need to be a majority vote by the property owners to increase the escalator. Mr. Sandelin stated that if this district were approved it would be the only landscape and lighting district in the City. He pointed out that it could create a situation where property owners compare their tax bills and conflicts arise when it is evident that some are assessed for maintenance costs and some are not, yet their fences are maintained in the same manner. He suspected that in landscape and lighting districts there would be higher property owner cost for the same benefit.

Mr. Prima reported that initially the developer would be the only property owner and the district could be formed solely by their vote. Years later if an increase in the assessment is needed, it would require a majority vote of the 74 property owners.

In reply to City Manager Flynn, attorney Tim Hachman explained that once formed, the City must hold an annual budget hearing on the landscape and lighting district.

In answer to Council Member Beckman, KB Home Government Affairs Director Randi Knott reported that they have formed landscape and lighting districts in every community across the state and most cities prefer the option. She explained that KB Home specializes in construction of homes for first-time homebuyers and the district method keeps the cost of housing more affordable.

In response to questions posed by Council Member Beckman, Mr. Hachman explained that Proposition 218 requires that ballots are mailed, equal to 100% of the dollars that are planned to be assessed. A simple majority vote in favor of the district allows its formation. In comparison, once downtown improvement districts are created, a non-profit corporation is formed and has a contract with the city to operate the district. In a landscape and lighting district the city would form, operate it, and approve its annual budget. Once the district is formed, the developer is no longer involved in the operation of the district. Mr. Prima interjected that there would be increased staff time involved, and though costs can be recovered, they would not have additional staff to complete the work.

Mr. Hachman believed that the staff report for this matter was misleading because it stated that the district could be dissolved by the landowners, which is not true. The power to dissolve the district comes under Article 13C of the constitution. The assessment district is not a legal entity, consequently neither the district itself nor the property owners within it, bear the power to dissolve it. The only way to dissolve it would be through an initiative process that involves the entire City of Lodi. He reported that in the last gubernatorial election Lodi had 15,494 people who voted for the governor. Under the Elections Code, the homeowners in the 74-unit subdivision would have to secure a petition signed by 1,549 registered voters in the City. If they were successful in doing so, the petition would qualify for the ballot. The question on the ballot would ask voters if they wanted to dissolve an assessment district, i.e. relieve 74 property owners of their annual assessments and take the burden on the entire City. Mr. Hachman pointed out that this is highly unlikely to occur. He reported that he recently spoke with Sam Sperry, an attorney in San Francisco, who was one of the individuals that originally drafted the legislation in 1972. Mr. Sperry informed him that there has never been a district dissolved and furthermore no one has ever attempted it because of the difficulty of the process to do so.

In regard to the budget and assessment, Mr. Hachman explained that the district is developed with an engineer's report, which sets forth what the cost of maintenance will be. One of the items of maintenance can be a replacement of the wall so that a fund can be built up over a period of time. The engineer must also determine the useful life of the wall. The maximum annual assessment is set when the district is created. For instance, if it were assumed that the cost to maintain the wall in 2003-04, including administration costs, would be \$25 a lot, the maximum annual assessment set in the engineers report could be \$50. The maximum annual assessment is then voted on. Property owners could be assessed at a lower value initially and increase it up to \$50 over time. An annual escalator based upon the Consumer Price Index, or a 3% annual increase, can be developed. The district assessment can be crafted so that over a long period of time the City could maintain the integrity of its funds and the necessary dollars required to handle the maintenance. In reference to Mr. Sandelin's earlier comment, Mr. Hachman reported that he was unaware of a district that has been formed where the engineer made the determination that the street right of way outside the wall, and outside the subdivision, benefited from the wall and therefore the City would be responsible to pay part of the maintenance cost. He did not believe such a finding would sustain validity in an engineer's report.

In reply to Council Member Land, Mr. Hachman stated that for walls next to parks the engineers report would define the purpose of the wall, i.e. it either protects the park or it protects homeowners from passing traffic. An argument could be crafted, which says that the park would not benefit from the wall.

In answer to Council Member Beckman, Mr. Hachman explained that if the maximum annual assessment was not sufficient to do the maintenance, then the City would need to secure a vote of the property owners to increase the assessment.

Mr. Hachman reported that the procedure used in Stockton to form landscape and lighting districts was that the formation costs, e.g. attorney and engineering fees, were borne by the developer and was not put into the annual cost that the homeowners bear. The City's administration fees can be included in the annual budget as long as they are set up ahead of time.

Mayor Hitchcock spoke in support of the landscape and lighting district concept and believed it to be a better choice than the one-time lump sum payment, which may not sufficiently cover costs over time.

Ms. Knott stated that KB Home's greatest concern is that this would not slow up the process, and noted that eight weeks has already lapsed since they requested the landscape and lighting district option.

In answer to questions posed by Council Member Hansen, Ms. Knott explained that assessments are not factored into the base price of homes, whereas the one-time lump sum payment would result in an increase of \$1,000 per home. Mr. Prima stated that after the first district was formed, any future districts would be added as a new zone rather than forming another district. He believed that the long-term cost to the property owner would be higher in a landscape and lighting district because they will also be paying for administration costs. He expressed concern that fences might be maintained differently if some were private, some were under a homeowners association, and some were in a landscape and lighting district. He asked whether the City would decrease its standard of maintenance, if in the future, the property owners voted not to increase their assessments.

In reply to Mayor Hitchcock, Mr. Prima acknowledged that a landscape and lighting district would be more favorable financially for the City and if it is formed, elimination of the fee option should be considered, to which Mayor Hitchcock agreed.

Continued May 27, 2003

D. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

None.

E. ADJOURNMENT

No action was taken by the City Council. The meeting was adjourned at 7:55 a.m.

ATTEST:

Susan J. Blackston
City Clerk